

March 11, 2005

To: Persons on the attached Certificate of Service

RE: Michael D. Johnson vs. Grant Residents Who Want to Save Grant, Art and Joyce Welander, Kim Linner, Tim Gangnon, Nancy Levitz, Brad Hindseth, Kevin Fernandez, Gary Erichson, and Tom Carr
OAH Docket No. 6-6381-16267-CV

Dear Parties and Counsel:

The panel has had great difficulty scheduling a prehearing conference in this matter. The primary purpose of holding a prehearing conference was to determine the positions of the parties regarding the treatment of the evidence already received into the record on the first day of hearing held January 18, 2005. Accordingly, **instead** of scheduling a prehearing conference, the panel requests that the parties complete and return the attached **ELECTION REGARDING EVIDENCE** to the Office of Administrative Hearings on or before **March 28, 2005**. If any party does not agree to the continued inclusion of the January 18 testimony and evidence in the hearing record, that evidence will be disregarded and the hearing record will begin anew.

The panel orders Mr. Benanav and Mr. Wachtler to provide each new party with a copy of the exhibits already admitted to the record by **March 18, 2005**. If any party wishes to review the hearing tapes, contact Staff Attorney Maria Lindstrom at (612) 349-2527 to make an appointment. Or parties may purchase a copy of the four tapes at a cost of \$10 per tape.

By **March 28, 2005**, the parties shall also provide, on the enclosed calendars, all dates in April and May, 2005, when they are **not** available to appear for the continued evidentiary hearing in this matter along with a brief description of the reason **why** they are not able to appear. (Please note that Minnesota Rules, part 1400.7500, enclosed, defines what constitutes "good cause" for delaying an administrative proceeding.) The parties will be notified of the hearing date once it is scheduled. At that time, the panel will issue another order regarding hearing preparation and procedures. (You may obtain information about hearing preparation and procedures on the Office's website – <http://www.oah.state.mn.us/apa.html>.)

Again, please fax or mail the above-requested information on or before **March 28, 2005**. The panel receives faxes at (612) 349-2665. If you have not already submitted a Notice of Appearance form to this office, please do so as soon as possible. A form is included for your convenience.

For the panel,

/s/ Bruce H. Johnson

BRUCE H. JOHNSON
Administrative Law Judge

Enclosures

cc: ALJs Mihalchick and Neilson

**STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS**

Michael D. Johnson,

Complainant,

**ELECTION REGARDING
EVIDENCE**

vs.

Grant Residents Who Want to Save Grant,
Art and Joyce Welander, Kim Linner, Tim
Gangnon, Nancy Levitz, Brad Hindseth,
Kevin Fernandez, Gary Erichson, and Tom
Carr,

Respondents.

Based upon all the files, records, and proceedings herein, the parties shall indicate one of the following:

_____ The evidence and testimony introduced at the hearing in the above-entitled matter on January 18, 2005, may remain a part of the record. (By stipulating to the use of this evidence, I am **not** waiving my right to re-call witnesses or examine evidence submitted into the record to date.)

_____ The evidence and testimony introduced at the hearing of the above-entitled matter on January 18, 2005, may **not** remain a part of the record.

Dated: _____

Party or Attorney signature

Party name (PRINTED)

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
ADMINISTRATIVE LAW SECTION
100 WASHINGTON SQUARE, SUITE 1700
MINNEAPOLIS, MINNESOTA 55401

CERTIFICATE OF SERVICE

Case Title: Michael D. Johnson vs. Grant Residents Who Want to Save Grant, Art and Joyce Welander, Kim Linner, Tim Gangnon, Nancy Levitz, Brad Hindseth, Kevin Fernandez, Gary Erichson, and Tom Carr	OAH Docket No.: 6-6381-16267-CV
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Maria Lindstrom certifies that on March 11, 2005, she served a true and correct copy of the attached **ELECTION REGARDING EVIDENCE** by placing it in the United States mail, properly enveloped, with postage prepaid, addressed to all individuals listed below.

Christopher Wachtler Collins, Buckley, Sauntry & Haugh 332 Minnesota Street Suite 1100 West St. Paul, MN 55101	Jay Benanav Weinblatt & Gaylord PLC 111 East Kellogg Boulevard Suite 300 St. Paul, MN 55101
Kevin M. Fernandez 8655 N Kimbro Lane Stillwater, MN 55082	Thomas R. Carr 9550 Joliet Ave N Stillwater, MN 55082
Emily Murphy Attorney at Law PO Box 2095 Stillwater, MN 55082	Gary L. Erichson 8599 – 105 th Street N Mahtomedi, MN 55115
Kimberly Swanson-Linner 9810 – 83 rd Street N Stillwater, MN 55082	Brad Hindseth c/o Art and Joyce Welander 10381 – 83 rd Street N Stillwater, MN 55082
Nancy Levitz 10155 – 119 th Street N Stillwater, MN 55082	